

September 6, 2019

Dr. Linda Darling-Hamond, President
California State Board of Education
1430 N Street, Suite 5111
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Via email only (sbe@cde.ca.gov)

LCFF Equity Coalition Comments re:

- *Item 1: Update on the Implementation of the Integrated Local, State, and Federal Accountability and Continuous Improvement System.*
- *Item 2: Local Control and Accountability Plan Template – Revision Prototype, consistent with California Education Code Section 52064.*

Dear President Darling-Hammond and State Board Members:

We represent a coalition of civil rights, advocacy, community, parent, student and other organizations who have worked diligently on passage and implementation of the Local Control Funding Formula (LCFF). LCFF creates an historic opportunity to focus resources on helping California's neediest students overcome the barriers they face in closing the achievement gap and graduating college and career ready. It also promises a new level of transparency and local engagement for parents, students, and community members in the design of their local schools. As you know, in an effort to give life to these objectives, we have commented jointly multiple times over the last six years regarding the State Board of Education's LCFF regulatory proposals and accountability system items.

We offer the following comments and recommendations concerning Items 1 and 2.

I. Item 1 – Update on the Implementation of the Integrated Local, State, and Federal Accountability and Continuous Improvement System.

A. Graduation Rate Indicator

As we have previously noted, we strongly support the Board's goal to incorporate a 5th-year graduation rate into the graduation rate indicator. Many students, especially students with special needs and recently arrived English learners, need extra time to fulfill all of the requirements to graduate. Schools supporting students that need this extra time should be encouraged.

The staff proposed methodology for including the 5th-year graduation rate is technically sound, albeit it is complicated and may lead to communication challenges. The method takes the 4-year graduation calculation and modifies it by adding to both the numerator and the denominator students who have graduated in 5 years. For the public, this combined measure may be confusing since it is neither a 4-year nor a 5-year graduation rate. While we think it makes sense to use this combined metric to set performance standards and assign a color rating, **we encourage the Board to also implement the recommendations of the California Practitioners Advisory Group (CPAG) to report in the Dashboard the performance and change for both the 4th-year and 5th-year graduation rate on the Dashboard.** These rates will have greater meaning to the Stakeholders in tracking the progress of their schools and districts than the combined rate, even though the combined rate will be used to determine the indicator's color rating. We also support raising the "low performing" threshold from 67 to 68 percent, aligned with CPAG's recommendation.

B. *English Learner Progress Indicator (ELPI)*

We are pleased to see the progress with implementation of the English Learner Progress Indicator (ELPI) and support the direction the State Board and CDE are taking. **Our main request at this point is that the Board direct staff to publish on the CDE website the ELPI performance of each LEA *by grade level* and the distribution of the scores across the proficiency levels and the state ELPI performance *by grade level with the distribution across the proficiency levels*.** Staff have indicated that they would make such information available upon request but are not presently intending to publish the data as a matter of course. We believe grade-level ELPI performance for LEAs and the State as a whole are important data to provide the public on a consistent and ongoing basis—and not only when requested—in order to convey how individual LEAs and the State overall are progressing with ELs.

II. **Item 2 - Local Control and Accountability Plan Template – Revision Prototype, consistent with California Education Code Section 52064.**

We submitted comments to SBE and CDE staff on August 23 in response to the July 31, 2019 prototype and data tables. We also copied you and other Board members. We are pleased that some of our comments have been taken into consideration in the draft version in item 2. However, we continue to have some of the same concerns and a few additional ones. We address them in the same order as we did in our August 23 letter, italicizing our additional, updated text.

A. **Plan Summary Reflections: Identified Need.**

We appreciate the inclusion of language in the prompt for Reflections: Identified Need that prompts areas of low performance and performance gaps among student groups on Dashboard indicators, and steps taken to address those areas. The additional prompts will invite LEAs to provide important information on whether the LEA's priorities are consistent with the Dashboard and their own priorities. We understand from staff that the instructions will make clear the existing prompts around Identified Need in the Plan Summary will still need to be addressed.

Also, it bears noting that, although a primary objective of the System of Support is to drive changes to the LCAP, nowhere in the LCAP Template or the Instructions are LEAs required to identify they are participating in Differentiated Assistance and what effect doing so has had on the LCAP. At a minimum, the Instructions should direct LEAs to do so in the Plan Summary when discussing the response to identified needs. Similarly, the Plan Summary should address which schools are both CSI or TSI schools and direct the public to the LEA's CSI plans.

B. **Increased and Improved Services section of the LCAP template should prompt LEAs to demonstrate that each of the services that are being funded and provided on a district or school wide basis are principally directed and effective (or most effective for non-concentrated districts/schools) to meet the needs of unduplicated students or else LEAs will continue to fall short of this critical equity guarantee.**

We understand and appreciate that staff plans to break down the actual amounts of supplemental/concentration funding in proportion to total LCFF funds reported at page 9 of 14. We also appreciate staff's acknowledgement that the prompt in the Required Descriptions at Page 9 could better communicate what the reader should be seeing here when LEAs choose to use supplemental/concentration funding on a district or school wide basis. (Entity-wide use of supplemental/concentration funds constitute the vast majority of the type of actions/services undertaken to increase/improve services for high need students.)

The prototype on page 9 *continues to* invite LEAs to *summarize* the required legal analyses and justifications for all its services and actions that contribute to increasing/improving services for unduplicated students. Specifically, the prototype states “A description of why services for English learners, foster youth, and low-income students are being provided to an entire school, or across the entire school district or county office of education.” In contrast to the current template, this language omits direction in the template for the legally required analyses that each service/action contributing to increased/improved services is principally directed and effective towards meeting LCAP goals. The wording invites LEAs to provide a blanket summary for why they are providing LEA-wide or school-wide services—the precise practice that the CDE has found to be insufficient in its own UCP decisions. The prompt is so certain, on its face, to fail to elicit responses from LEAs that address the regulations’ specific “principally directed” and “effective” standards that it cannot be said to satisfy LCFF legal requirements. We urge a different approach.

CDE’s justification for these critical omissions is grounded in the statutory language that directs the board to approve a template which uses “language that is understandable and accessible to parents” and the board “may include more technical language in the instructions.” Cal. Educ. Code Sec. 52064 (d)(1).

The scant language in this section is incomplete and goes beyond making the language easier to understand. Indeed, it makes it even less likely than the current template that LEAs will address the legal requirements in statute and regulations and thus provide assurances that LEAs are increasing or improving services for high-need students as LCFF requires.

Also, this format encourages LEAs to lump their many schoolwide and districtwide actions of varying natures into a single justification, a significant dilution of the prior template’s direction to justify each action separately. This dilution will also violate the regulatory requirements as LEAs’ multiple and varied supplemental and concentrated-supported actions (e.g., counselors, A-G interventions, parent engagement actions, school climate initiatives, etc.) will not possibly be capable of being justified as principally directed and effective according to a single rationale. Instead, the proposed prompt will invite LEAs to pick and choose what districtwide and schoolwide services they want to discuss and is highly likely to lead them to omit discussion of significant LCAP investments.

For example, in its adopted 2019-20 LCAP, Los Angeles Unified School District attempts to justify its “School Autonomy” action and more than \$880 million in funding for high need students—over 9% of all supplemental and concentration funds in all of California—in three scant lines:

The Student Equity Needs Index distributes funding based on a formula that includes indicators of student and community need. Schools have autonomy to develop a plan to utilize these funds to support district goals. Examples of expenditures for schools include nurses, counselors, class size reduction teachers, and additional professional development.¹

This description does not satisfy the legal requirement to: (1) identify each of the 22 services that are being funded and provided on a districtwide or schoolwide basis under LAUSD’s School Autonomy item; (2) describe how these services are principally directed towards meeting the district’s goals for high need students; and (3) explain how these services are effective in increasing graduation rates and college/career readiness or any other expected outcome for unduplicated students.

¹ Exhibit 5, Carrion v. LAUSD, Uniform Complaint, available at https://www.publicadvocates.org/wp-content/uploads/carrion-v-laUSD_exhibits-1-20-final.pdf. For full complaint: <https://www.publicadvocates.org/wp-content/uploads/carrion-v.-laUSD-ucp-complaint-july-11-2019-final.pdf>

The language we seek paralleling the regulatory “principally directed” and “effective” standards has been in the LCAP Template Instructions from the early years of LCAPs; our experience (as well as numerous CDE appeal decisions over the years) confirms that burying this critical analysis in the instructions has led to many LEAs across the state failing to provide the required justifications for their expenditure of billions of S&C dollars year after year. Indeed, CDE decisions in UCP complaints have identified the importance of these analyses and descriptions and corrected illegal interpretations by districts on several occasions. We have worked with staff in county offices of education who also agree that district staff still do not understand this legal requirement and need support in meeting it. Burying the expectation in the Instructions has not been serving and will continue not to serve that purpose. With this revised prototype, the state is missing a critical opportunity to support LEAs to do a better job in reflecting on the actions and services that they are purportedly taking to increase or improve services for high need students and close equity gaps.

In fact, there is no question that parents and the public understand what is being asked of LEAs because it is what they are asking their districts as well: for each action or service, what are the specific needs, conditions or circumstances of LCFF-targeted students that prompts the LEA to plan a school- or district-wide spending of supplemental and concentration funding in this way, and why does the LEA believe it is effective (or most effective for non-concentrated districts/schools)? Without this prompt in the LCAP template itself, LEAs will be invited to continue to ignore the required legal analyses of principally directed and effective.² Even in the case where the LEA engages in this analysis internally, it is not transparent if it is not contained in the LCAP. This is contrary to the principles of LCFF that in exchange for increased funding flexibility and greater resources to serve high-need students, LEAs must provide the transparency necessary to support informed community engagement needed for local accountability. We also recommend that a data table be added to allow LEAs to identify which schools are being provided funding to increase or improve services school wide. See Attachment 2.

C. The Prototype’s proposed Stakeholder Engagement section is not a significant improvement and should prompt LEAs to describe the impacts of stakeholder engagement and where they are contained in the LCAP.

The revised prompt to describe “how stakeholder engagement impacted the development of the LCAP” is too general to prompt LEAs to demonstrate what they heard from stakeholders and whether it affected the LCAP. Without these descriptions, the lack of transparency will have a negative effect on community engagement. Without informed community engagement, LCFF’s principles of local control and accountability are meaningless. We wish to emphasize that members of the Community Practitioners Advisory Committee (CPAG) were aligned with our concerns in this section of the prototype presented at the August 22 meeting.

We appreciate the list of stakeholder groups that LEAs are minimally required to engage and consult in the LCAP development process. Regarding students, however, there should be a prompt to support LEAs in implementing and describing its “process to enable pupils, including unduplicated pupils and other numerically significant pupil subgroups, to review and comment on the development of the LCAP. This process may include surveys of pupils, forums with pupils, pupil advisory committees, or meetings with pupil government bodies or other groups representing pupils.” Cal. Code Regs. title 5, section 15495(a). Such a prompt is important for students, families and other stakeholders to understand how students should be engaged.

We urge the SBE to ensure that the Stakeholder Engagement section meaningfully reports to stakeholders the impact of their feedback on the LEA’s LCAP. The current template *still* fails to do so. The Stakeholder

² Note, to the extent the concern is with the supposed technical nature of the regulatory language, we are not opposed to the prompt using more colloquial language if it follows the regulatory structure and the instructions provide the full technical explication. E.g., “Explain how you considered high-need students first and foremost in selecting this service.” And “Explain why this action or service will be and (if already in place) is being effective.”

Engagement section of the prototype at page 3 is a slight improvement over the current template in that it prompts LEAs to indicate whether it has met with the minimum legally required stakeholder groups. In this way, CDE supports LEAs to do what the statute requires. However, the statute also states:

(e) (1) The process of developing and annually updating the local control and accountability plan should support school districts, county offices of education, and charter schools in comprehensive strategic planning, accountability, and improvement across the state priorities and any locally identified priorities through meaningful engagement with local stakeholders. Cal. Educ. Code Sec. 52064(e) (1).

Transparency is key to informed stakeholder engagement that can support strategic planning, accountability and continuous improvement. Our experience is that parents, students and the public feel their input is being ignored when it is not referenced or addressed in the LCAP. We know from our experience supporting students and families of color to participate in LCAP development in multiple districts throughout the state over the past five years that this frustration discourages community engagement. **The current descriptive language should be amended to prompt LEAs to explain the impact of those engagements on the LCAP and Annual Update. Moreover, LEAs should be prompted to provide a reference to the LCAP numbered Action Area that was impacted by the feedback.** *See Attachment 3. Note, contrary to feedback from staff, this approach does not call for the detailed rationale as to why each and every piece of input was accepted or rejected as might be the case during an Administrative Procedures Act regulatory proceeding, but rather a summary of key input from key stakeholder constituencies and a brief description of their impact on the LCAP.*

Public Advocates offered a suggestion that CDE shared in the early Stakeholder Engagement meetings in June. This suggested format has a third column asking for the district's response and the impact on LCAP, including providing actions/services and page number in the LCAP. We support the inclusion of this suggested format. Attachment 3.

D. The LCAP template should prompt LEAs to describe services for English learners and foster youth. These directions should not be buried in the Instructions.

*We were disappointed not to see a specific prompt for LEAs to include minimally required actions when they have a numerically significant student group of English learners. While the statute states the instructions should specify this, the lack of a prompt in the template invites LEAs to ignore this recent requirement to “include specific actions in the local control and accountability plan related to, at a minimum, **the language acquisition programs**, as defined in Section 306, provided to pupils and **professional development activities** specific to English learners.” Leaving this up to the LEA to decide where and how to provide this information risks the very real possibility that it will not be communicated to the LCAP reader—English learners, families, and other community stakeholders.*

While the statute specifies that the duty to describe services for English learners when they comprise a significantly numerical student population shall be included in the instructions, it does not prohibit language in the template prompting LEAs to do so. With English learners comprising over 1.2 million students statewide, many LEAs will be required to address this legal requirement. Indeed, many communities will expect to see the services specifically targeting English learners in their LCAPs. We request that there be prompts in the template mirroring the Education Code to include, at a minimum, language acquisition programs & professional development opportunities specific to teachers working with English learners. This will helpfully remind LEAs of their legal obligations. LEAs should also be directed to separate data for EL and RFEP students in their annual measurable outcomes.

We recommend including similar prompts in the template for LEAs to address their efforts for foster youth.

E. In the Goals, Actions & Services section, prospective and actual spending should be more transparent.

While we appreciate the addition of a spreadsheet to summarize expenditures, we are concerned about changes that will encourage LEAs to provide less transparency around their spending in the LCAP. Despite the elimination of SACS codes in statute, LEAs should still be allowed to use SACS codes as a local decision. Differentiation between personnel and non-personnel expenditures is not specific enough. As an example, consultants are people but expenditures on consultants would not be reported in personnel. While the proposed template asks LEAs to specify the proportionality percentage by which they are required to increase/improve services for unduplicated students and whether a service or action contributes to increases/improvements, information about the character of funding is important. Some districts use foundation grants, federal funds, or other types of funding besides LCFF supplemental and concentration funding to increase/improve services. This information will support local accountability. Districts that already provide this level of transparency, including by designating supplemental and concentration spending in their LCAP should be allowed to retain that level of transparency in the new template. We would like to see a column for positions/FTE. The districts should post their spreadsheets in an electronic format in addition to providing pdfs so that the public may search and filter them for relevant information.

Finally, while the “Location” column in the expenditure spreadsheet is a welcome addition, we highly recommend providing an additional data table for LEAs with multiple schools to summarize LCAP services being provided at school sites. See Attachment 2. This level of transparency would be even more responsive to the needs of students and families. Moreover, as noted in various CDE UCP determinations, when supplemental and concentration funds are being delegated to specific schools for use, LEAs are required to include in their LCAPs an identification of the specific actions those funds are being used to support and a justification of how the actions are principally directed toward and effective in advancing high-need pupil goals. As such, a school-level allocation/justification data table is a necessity.

F. The Goal Analysis Section’s prompt to explain “how effective the specific actions or services were in making progress toward the goal” fails to meet the requirements of statute.

The LCFF statute requires that the new LCAP template ensure LCAPs contain “an assessment of the effectiveness of the specific actions described in the existing [LCAP] toward achieving the goals”. Cal. Ed. Code Section 52064(b)(7). The proposed template lumps all specific actions under each goal together and calls simply for an assessment of the LEA’s overall progress toward its goals. This approach fails to comply with the statute as it does not permit, much less promote, an analysis of each specific action’s contribution—or lack thereof—toward a goal. The prompt should be revised to call instead for what the statute calls for—an analysis of “how effective each specific action or service was in making progress toward the goal”.

G. The elimination of the Annual Update table in favor of a pared down Goal Analysis Section fails to prompt an explanation of material differences in the *implementation* of actions and services.

In the new prototype format, LEAs are no longer prompted to explain how each action was implemented versus the planned implementation. As was discussed in our last advisory group section, it is critical for accountability and transparency that LEAs explain where there were material differences in implementation—

especially where budgeted and actual expenditures may be largely similar. At that time, the agreement in the room was to modify the prompt: “**An explanation of material differences between Budgeted Expenditures and Estimated Actual Expenditures**” to include an explanation of material differences in the *implementation* of budgeted and actual expenditures and/or the material differences between budgeted expenditures and estimated actual expenditures. As was explained at the time, an action may end up costing similar amounts to what was budgeted but could have been implemented in an entirely different way. One example we have seen is a district that purported to take actions to promote school safety through the hiring of nurses, and then instead spent those funds on campus security and law enforcement. The cost of that action may have been substantially similar, but the implementation was materially different. Indeed, the statute calls for no less in requiring the new template prompt “an update on progress implementing the specific actions in the current fiscal year.” Cal. Ed. Code Section 52064(b)(7).

We understand from staff that they may be proposing an update to the prototype to address this concern.

H. The Goals, Actions & Services section also fails to prompt districts to explain how their goals are addressing all 8 or more state priorities.

The Goals, Actions & Services section fails to prompt LEAs to explain how they are addressing all 8 (or for COEs 10) state priorities through their LCAP Goals. Along with the language calling out “focus goals”, this could easily lead LEAs to believe the LCAP is no longer meant to be a comprehensive plan around how the LEA is serving all students and all state priorities. As things stand now, even five years into implementation, there are still many districts that include only a fraction (e.g., 12%, 20%) of their General Fund in their LCAP.

I. Include a requirement that the document text be provided in an electronic format that is searchable.

We are concerned that CDE’s efforts to make the LCAP template shorter is at the expense of diluting transparency. An easier approach would be to require that document text is searchable. In this way, the reader could focus on their preferred issues without having to read the entire document if such is their preference.

J. The LCAP should be accessible to those who speak languages other than English

Further, LEAs’ well-intentioned efforts to translate their LCAPs by simply using some computerized version of Google translate has resulted in unintelligible LCAPs. Interpretation and translation are not the same for every language. Word for word translation of English makes some languages unintelligible. The state must invest in high quality translation of the template by native and fluent speakers.

K. Timeframe of Revised LCAP Template.

With a revised LCAP template being implemented for 3-year plans beginning with the 2020-2021 school year, we are concerned about how the outcomes for the prior 3-year plans are evaluated and analyzed. It will be important to continue to show and require explanation of differences in planned and actual spending, actions and services from the 2019-20 LCAP. In addition, where metrics in outcomes remain the same over time, the template should prompt LEAs to provide trend data beyond baseline data.

L. Goals, Actions Services Section: Show Progress on Metrics Better and Promote Gap-Closing for Lagging Subgroups

*The metrics table should do a better job of showing progress (or the lack thereof) by including data from a year or two prior to the first year of the 3-year LCAP cycle and by being clear what year the baseline data is from. Also, nowhere do the prompts or the Instructions call for LEAs to establish more aggressive gap-closing goals for underperforming student sub-groups. **This is a major gap in the LCAP Template.** A core purpose of LCFF's equity promise is that the additional resources and focus on high need populations will close performance gaps. To address this equity promise, LEAs should be encouraged to establish aggressive differential goals for underperforming student subgroups.*

As we have discussed, implementation is a significant undertaking and it is imperative that the state have a strong plan for supporting an effective roll out of a new template that proactively addresses anticipated challenges based on past implementation.

* * *

Thank you for the opportunity to comment. We look forward to continuing working with the State Board of Education to realize the full promise of LCFF for our neediest students.

Sincerely,

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Attachments:

1. LCAP Redesign_Increased_Improved Services
2. Sample School Site Allocation Template
3. LCAP Template Redesign_Stakeholder Engagement

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